**THE COUNCIL OF THE CITY OF NEW YORK**



**OFFICE OF THE GENERAL COUNSEL**

**Jason Otaño, General Counsel**

**COMMITTEE REPORT OF THE**

**COMMITTEE ON RULES, PRIVILEGES AND ELECTIONS**

**Hon. Keith Powers, Chairperson**

**July 14, 2022**

Council Chambers at City Hall

New York, NY 10007

**Topic I: *New York City Board of Standards and Appeals – (Mayoral candidate for appointment upon advice and consent of the Council)***

* **Christine Yoon [M-77]**

*New York City Charter* (“*Charter*”) § 659 provides for the establishment of an independent Board of Standards and Appeals (“BSA”) located within the Office of Administrative Trials and Hearings (“OATH”). The BSA consists of five Commissioners, each appointed by the Mayor for a term of six years. Pursuant to *Charter* § 31, appointments to the BSA are made with the advice and consent of the Council. The *Charter* further provides that one of the BSA’s members shall be a planner with professional qualifications and at least ten years’ experience as a planner; one of the members shall be a registered architect and shall have at least ten years’ experience as an architect; and one of the members shall be a licensed and professional engineer and shall have at least ten years’ experience as an engineer. The particular qualifications of the two remaining members are not delineated in the *Charter.* The Mayor designates one of the members with the required experience of an architect, planner or engineer to serve as Chair, and designates one of the members to serve as Vice-Chair. In the absence of the Chair, or in the event that a vacancy exists in the office of the Chair, the Vice-Chair acts as Chair of the BSA. No more than two members may reside in one borough. The BSA is empowered to: (1) hear and decide appeals from and review, except as otherwise provided by law, any order, requirement, decision or determination of the Commissioner of Buildings or any Borough Superintendent of Buildings acting under written delegation of power from the Commissioner of Buildings filed in accordance with *Charter* § 645 (b); (2) hear and decide appeals from and review any order, requirement, decision or determination of the fire Commissioner, or any rule or regulation or amendment or repeal thereof made by the Fire Commissioner; or (3) hear and decide appeals from and review any order, requirement or determination of the Commissioner of Transportation, or the Commissioner of the Department of Business Services[[1]](#footnote-1) made in relation to the structures or uses on water front property under his or her jurisdiction in connection with the application or enforcement of the provisions of the *Zoning Resolution of the city of New York* (“*Zoning Resolution*”), the labor law and such other laws, rules, and regulations as may govern the construction, alteration, maintenance, use, occupancy, safety, sanitary conditions, mechanical equipment and inspection of structures in the City.

 The BSA has the power to determine and vary the application of the *Zoning Resolution*, and to issue special permits as authorized by the *Zoning Resolution*. The BSA has the same powers as those exercised by the New York State Department of Labor with respect to buildings situated in the City. The BSA may also consider appeals to vary or modify any rule or regulation or the provisions of any law relating to the construction, use, structural changes, equipment, alteration or removal of buildings or structures, or vaults in sidewalks appurtenant thereto, where there are practical difficulties or unnecessary hardship in carrying out the strict letter of the law, so that the spirit of the law shall be observed, public safety secured and substantial justice done.

 Each member of the BSA receives a salary, and may not engage in any other occupation, profession or employment. The Chair earns an annual salary of $227,786. The Vice-Chair receives $187,479 annually, while the other members earn an annual salary of $174,827. Members attend the hearings and executive sessions of the BSA, and perform such other duties as may be required by the Chair. The Mayor fills vacancies for the un-expired term of the member whose place becomes vacant with a person having his or her qualifications.

 Ms. Yoon is scheduled to appear before the Committee on Rules, Privileges, and Elections on July 7, 2022. If appointed, Ms. Yoon, a professional architect, will be eligible to serve the remainder of a six-year term that will expire on September 1, 2027.

**Topic II: *New York City Planning Commission – (Candidates for appointment by the Mayor and Brooklyn Borough President upon the advice and consent of the Council)***

* **David Gold [M-75]**
* **Rasmia Kirmani-Frye [M-76]**
* **Juan Camilo Osorio [Pre-considered M-]**

Pursuant to the *New York City Charter* (*“Charter”*) §192, there shall be a thirteen-member City Planning Commission, with seven appointments made by the Mayor (including the Chair), one by the Public Advocate, and one by each Borough President. [*Charter* §192(a)] All members, except the Chair, are subject to the advice and consent of the Council. [*Charter* §192(a)] Further, the *Charter* states that members are to be chosen for their independence, integrity, and civic commitment. [*Charter* §192(a)]

The *Charter* provides that CPC members shall serve for staggered five-year terms, except for the Chair, who as Director of the Department of City Planning (*Charter* §191), serves at the pleasure of the Mayor. [*Charter* §192(a)] For purposes of Chapter 68 of the *Charter* (Conflicts of Interest)*,* CPC members, other than the Chair, shall not be considered regular employees of the City. [*Charter* §192(b)] There is no limitation on the number of terms a CPC member may serve. [*Charter* §192(a)] CPC members are prohibited from holding any other City office while they serve on the CPC. [*Charter* §192(b)] The Chair receives an annual salary of $222,326.00. The member who is designated as Vice-Chair receives an annual salary of $73,855.00. The other members receive an annual salary of $64,224.00.

CPC is responsible for the following:

* CPC must engage in planning focused on the City’s orderly growth, improvement, and future development, which includes consideration of appropriate resources for housing, business, industry, recreation, and culture. [*Charter* §192(d)];
* CPC assists the Mayor and other officials in developing the ten-year capital strategy, the four-year capital program, as well as the annual *Statement of Needs.* [*Charter* §192(f)];
* CPC oversees and coordinates environmental reviews under the *City Environmental Quality Review* (“CEQR”), as mandated by state law (*Environmental Conservation Law* – Article 8). [*Charter* §192(e)]; and
* CPC must review, and either approve or deny, any City proposal involving the City’s request to make acquisitions for office space and any requests for existing buildings for office use. [*Charter* §195]

CPC is also responsible for promulgating various rules, some of which consists of the following:

* It is CPC’s responsibility to establish minimum standards for certifying the *Uniform Land Use and Review Procedure* (“*ULURP*”) applications, which includes providing specific time periods for pre-certification review. [*Charter* §197-c (i)];
* The criteria associated with the selection of sites for capital projects is also established by CPC. [*Charter* §218 (a)];
* CPC establishes the minimum standards for the form and content of plans for the development of the City and boroughs. [*Charter* §197-a (b)]; and
* CPC also adopts rules that either list major concessions or establishes a procedure for determining whether a concession is defined as a *major concession,* as it relates to the act of City Agencies granting concessions. [*Charter* §374 (b)].

If appointed to the CPC by the Mayor, Mr. Gold, a resident of Manhattan, will serve the remainder of a five-year term that expires on June 30, 2026. A copy of the candidate’s résumé as well as the related associated message is attached to this briefing paper.

If appointed to the CPC by the Mayor, Ms. Kirmani-Frye, a resident of Brooklyn, will serve the remainder of a five-year term that expires on June 30, 2024. A copy of the candidate’s résumé as well as the related associated message is attached to this briefing paper.

If appointed to the CPC by the Brooklyn Borough President, Mr. Osorio, a resident of Brooklyn, will serve the remainder of a five-year term that expires on June 30, 2027. A copy of the candidate’s résumé as well as the related associated message is attached to this briefing paper.

**Topic III: *New York City Equal Employment Practices Commission – (Candidates for appointment by the Council*)**

* **Nicole Yearwood [Preconsidered-M]**
* **Ngozi Okaro [Preconsidered-M]**

Chapter 36 of the *New York City Charter* (the “Charter”) establishes an Equal Employment Practices Commission (“EEPC”) within the City of New York. The law provides that EEPC shall review, evaluate and monitor the employment procedures, practices and programs of City agencies including the City’s Department of Citywide Administrative Services. Its purpose is to ensure an effective affirmative employment program of equal employment opportunity for minority group members and women who are employed by or seek employment with City agencies [*New York City Charter* §830(a)].

The EEPC consists of five members who are compensated on a per-diem basis.[[2]](#footnote-2) The Mayor and the Council each appoint two members, and the Mayor and the Speaker of the Council jointly appoint a fifth member to serve as Chair of EEPC [*New York City Charter* §830(b)]. Members, including the Chair, have four year terms [*New York City Charter* §830(d)]. A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of EEPC. Three members shall constitute a quorum. [*New York City Charter* §830(c)].

EEPC may, within available appropriations, appoint an executive director and such deputies, assistants, and other employees as may be needed in the performance of its duties [*New York City Charter* §830(e)]. EEPC may meet as necessary to implement the provisions of Chapter 36 of the *Charter*, but at least once every eight weeks [*New York City Charter* §830(f)].

Pursuant to *New York City Charter* §831, some of EEPC powers and duties include:

* monitoring the employment practices of all local agencies, including non-Mayoral agencies;
* monitoring the implementation and coordination of City affirmative employment programs;
* requesting information from agencies to carry out Commission functions;
* communicating with the New York City Human Rights Commission concerning violations;
* reviewing and providing comments on annual equal employment opportunity plans adopted by City agencies;
* recommending to any City agency actions which such agency should consider including in its next annual plan;
* advising, and if requested, assisting City agencies in their efforts to increase employment of minority group members and women who are employed by or who seek employment with City agencies;
* auditing and evaluating the employment practices and procedures of each City agency and their efforts to ensure fair and effective equal employment opportunity for minority group members and women at least once every four years and whenever requested by the New York City Civil Service Commission or the New York City Human Rights Commission or whenever otherwise deemed necessary by the Commission;
* making policy, legislative and budgetary recommendations to the Mayor, the Council, the New York City Department of Citywide Administrative Services or any City agency as the Commission deems necessary;
* publishing by the 15th of February of each year, a report to the Mayor and the Council on the activities of EEPC and the effectiveness of each City agency’s affirmative employment efforts and the efforts by the New York City Department of Citywide Administrative Services to ensure equal employment opportunity for minority group members and women who are employed by or seek to be employed by City agencies;
* establishing appropriate advisory committees;
* serving as liaison for the City to state, federal and local agencies responsible for compliance with equal employment opportunity; and
* taking such other actions as are appropriate to effectuate the provisions and purposes of Chapter 36 of the *Charter*.

EEPC is also empowered with compliance procedures to insure that City agencies are adhering to the law [*New York City Charter* §832].

Ms. Yearwood is scheduled to appear before the Council’s Committee on Rules, Privileges and Elections on Thursday, July 7, 2022. If appointed by the Council as a member of EEPC, Ms. Yearwood, a resident of Manhattan, will be eligible to serve the remainder of a four year term that expires on June 30, 2024.

Ms. Okaro is scheduled to appear before the Council’s Committee on Rules, Privileges and Elections on Thursday, July 7, 2022. If appointed by the Council as a member of EEPC, Ms. Okaro, a resident of Manhattan, will be eligible to serve the remainder of a four year term that expires on June 30, 2023.

Copies of the following are annexed to this briefing paper: the candidates’ résumés, pre-hearing questions with their associated answers, and the reports/resolutions for all three candidates.

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1. Charter § 666 (6)(c) still reads “the Commissioner of Ports and Trade.” The Department of Small Business Services (“DSBS”) is recognized as the successor agency to the Department of Ports and Trade. BSA handles DSBS’ requests for interpretive appeals. [↑](#footnote-ref-1)
2. The current per-diem rate for Commission members is $250. The rate for the Chair is $275. [↑](#footnote-ref-2)